

THE HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

v.

MOTOROLA, INC., et al.,

Defendants.

No. C10-1823-JLR

**MOTOROLA'S TIMELINE OF
SELECT EVENTS**

MOTOROLA MOBILITY LLC, et al.,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

Pursuant to the Court's request at the July 31, 2013 Hearing, Motorola submits the below timeline of select events pertinent to the issues to be presented at the August 26, 2013 trial.

Timeline

2007-2010	Motorola's license to Microsoft's ActiveSync patents expire and Motorola and Microsoft try to negotiate a renewal
2009	Publicity regarding Motorola plans to use the Android platform on its phones, rather than Windows Mobile.

1	Oct. 1, 2010	Microsoft files patent infringement suit against Motorola in the ITC (<i>Certain Mobile Devices, Associated Software, and Components Thereof</i> , Investigation No. 337-TA-744) (“ITC 744 Action”), alleging infringement by Motorola’s Android smartphones. Microsoft alleged infringement of Microsoft’s ActiveSync patents, as well as others. Microsoft sought an exclusionary order.
2	Oct. 1, 2010	Microsoft files patent infringement suit against Motorola in W.D. Washington (<i>Microsoft Corp. v. Motorola, Inc.</i> , Case No. 2:10-cv-1577-RSM) (“1577 Action”), alleging infringement by Motorola’s Android smartphones. The patents at issue are the same as in the ITC 744 action. Microsoft sought, among other remedies, injunctive relief.
3	Early Oct. 2010	Microsoft invites Motorola to “put its patents on the table” so the parties can discuss a patent cross license agreement.
4	Oct. 21, 2010	Motorola sends Microsoft a letter offering to license Motorola’s patents essential to the 802.11 standard (“Motorola’s 802.11 SEPs”).
5	Oct. 22, 2010	Microsoft and Motorola meet in person to discuss a patent cross license agreement.
6	Oct. 29, 2010	Motorola sends Microsoft a letter offering to license Motorola’s patents essential to the H.264 standard (“Motorola’s H.264 SEPs”).
7	Nov. 9, 2010	Microsoft files a complaint in W.D. Washington for the present case (“1823 Action”).
8	Nov. 10, 2010	Motorola files two patent infringement suits (<i>Motorola Mobility, Inc. and General Instrument Corp. v. Microsoft Corp.</i> , Case No. 3:10-cv-699 (“699 Action”) and <i>Motorola Mobility, Inc. and General Instrument Corp. v. Microsoft Corp.</i> , Case No. 3:10-cv-700 (“700 Action”)) against Microsoft in W.D. Wisconsin, alleging infringement of certain Motorola 802.11 and H.264 SEPs, and other patents.
9	Nov. 22, 2010	Motorola files a patent infringement suit against Microsoft in the ITC (<i>In the Matter of Certain Gaming and Entertainment Consoles, Related Software, and Components Thereof</i> , Investigation No. 337-TA-752) (“ITC 752 Action”). The patents at issue were the same as those that were ultimately at issue in the 700 Action.
10	Jan. 4, 2011	Motorola, Inc. changes its name to Motorola Solutions, Inc., and Motorola Mobility, Inc. is spun off from Motorola, Inc.
11	Feb. 23, 2011	Microsoft files amended complaint in this case, alleging that Motorola breached obligations to SDOs by seeking to enjoin Microsoft’s implementation of Motorola’s SEPs.
12	June 1, 2011	The Court denies Motorola’s motion to dismiss Microsoft’s breach of contract claim. (Dkt. 66.)
13	June 14, 2011	Microsoft submits a letter to the Federal Trade Commission, in which it argued that SEP holders should be permitted to seek injunctive relief. It also argued in favor of defensive suspension provisions.
14	July 2011	At Microsoft’s request, Marvell approaches Motorola Mobility for a license to its 802.11 SEPs.

July 6-7, 2011	General Instrument Corp. files patent infringement suits against Microsoft in Germany, alleging infringement of two Motorola H.264 SEPs. Motorola sought injunctive relief. <i>General Instrument Corp. v. Microsoft Deutschland GmbH</i> , Mannheim District Court Case No. 2 O 240/11; <i>General Instrument Corp. v. Microsoft Deutschland GmbH</i> , Mannheim District Court Case No. 2 O 373/11; <i>General Instrument Corp. v. Microsoft Corp. and Microsoft Ireland Operations Ltd.</i> , Mannheim District Court Case No. 2 O 376/11; <i>General Instrument Corp. v. Microsoft Ireland Operations Ltd.</i> , Mannheim District Court Case No. 2 O 387/11.
July 18, 2011	Marvell, the supplier of 802.11 chips for Microsoft's Xbox products, seeks a RAND license to Motorola Mobility's 802.11 standard essential patents.
September 30, 2011	Microsoft first states that it is willing to accept a license to Motorola's H.264 and 802.11 SEPs on RAND terms. (Dkt. 95)
Oct. 5, 7, 2011	Microsoft files its defense in Germany but does not submit an Orange Book offer.
Nov. 25, 2011	In response to Marvell's request for a license, Motorola Mobility sends Marvell a license proposal. Marvell's license proposal excludes from the scope of coverage any chips that Marvell would provide to Microsoft and two other companies that also previously sued Motorola.
Dec. 16, 2011	Motorola Mobility assures Marvell that it has no intention of asserting its 802.11 SEPs against Marvell.
Dec. 23, 2011	Microsoft submits an Orange Book offer for Motorola's H.264 standard essential patents at issue in Germany of EUR Cents 2.0 per unit for up to 10 million units and EUR Cents 1.0 per unit thereafter.
Jan. 2012	Microsoft's logistics department begins considering whether to relocate its EMEA distribution center from Germany to the Netherlands.
Feb. 7, 2012	Hearing takes place in Germany where the German court announces an April 17, 2012 decision date.
Feb. 27, 2012	This Court rules on Microsoft's motion for partial summary judgment, finding that Motorola entered into binding contracts with the IEEE and ITU and that Microsoft is a third-party beneficiary to those contracts. (Dkt. 188)
Mar. 14, 2012	Microsoft asks Motorola to agree that it would not seek enforcement of a German injunction pending a ruling on the RAND related issues by this Court, and offered to post a bond of \$300 million.
Mar. 19, 2012	Motorola responds to Microsoft's bond offer and suggests that the sufficiency of the offer with respect to the German proceedings should be addressed by counsel in Germany for both parties.
Mar. 28, 2012	Microsoft files for temporary restraining order in the 1823 Action to bar Motorola from enforcing an injunction in Germany. (Dkt. 210.)
April 12, 2012	This Court issues a temporary restraining order, precluding Motorola from enforcing an injunction against Microsoft in Germany. (Dkt. 261.)
April 25, 2012	An Initial Determination is issued in the ITC 752 Action, finding that certain Motorola H.264 and 802.11 SEPs were valid and infringed by Microsoft.

May 2, 2012	The Mannheim District Court in Germany issues four judgments finding that Microsoft infringed General Instrument Corp.'s H.264 SEPs. The Court found that it did not violate antitrust law for General Instrument not to accept Microsoft's license offer. General Instrument Corp. was granted the right of preliminary enforcement of injunctive relief, among other relief, but the judgment was enforceable only upon General Instrument providing security.
May 14, 2012	This Court converts the temporary restraining order into preliminary injunction precluding Motorola from enforcing an injunction against Microsoft in Germany. (Dkt. 318.)
May 22, 2012	Motorola Mobility is acquired by Google Inc.
June 1, 2012	Microsoft's EMEA distribution facility goes "live" in the Netherlands.
June 6, 2012	Court denies Motorola's motion for summary judgment that Microsoft repudiated Motorola's RAND commitments. (Dkt. 335.)
June 26, 2012	Marvell offers Motorola Mobility a counter proposal including a royalty free cross license agreement and removing the defensive suspension provision that applied to Microsoft. Motorola Mobility does not reject the proposal and requests claim charts from Marvell, which were not provided.
Sept. 28, 2012	Ninth Circuit affirms this Court's Preliminary Injunction Order
Oct. 10, 2012	This Court denies Motorola's motion for partial summary judgment to dismiss Microsoft's claim that the court create a license agreement for Motorola's standard essential patents. (Dkt. 465.)
Nov. 13-20, 2012	Trial is held before this Court regarding the appropriate RAND rate and range for Motorola's 802.11 and H.264 SEP portfolios with respect to Microsoft.
Nov. 30, 2012	This Court grants Microsoft's motion for summary judgment, dismissing without prejudice Motorola's claims for injunctive relief for alleged patent infringement. (Dkt. 607.)
Jan. 3, 2013	The FTC and Google enter a consent order regarding enforcement of SEPs.
April 19, 2013	This Court issues its Findings of Fact and Conclusions of Law from the November 2012 trial regarding the appropriate RAND rate and range for Motorola's 802.11 and H.264 SEP portfolios with respect to Microsoft. (Dkt. 673.)

DATED this 16th day of August, 2013.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 16th day of August, 2013.

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